

REMARKS

Amendments to the specification

Table 1 was amended to indicate the full reference for “Schlicker”: Schlicker et al. Int J Radiat Biol. 1999 Jan;75(1):91-100. Applicants believe that the amendment does not add new matter, as the reference is easily deduced by the author, volume and page number that was in the application as originally filed. Applicants corrected a typographical error, which error was not made with deceptive intent, on page 4, line 19.

Applicants respectfully request the amendments be entered into the application.

Status of the claims

Claims 1-7, and 9 have been amended, and claims 11-13, 15, 23, and 25 have been cancelled without prejudice; Applicants reserve the right to prosecute the cancelled claims in this or one or more continuing applications. Support for the claim amendments are detailed below.

Claims 1-10, 14, 16-22, 24, and 26 are currently pending.

Applicants respectfully request the Office to withdraw all objections and rejections in view of the preceding amendments and following remarks.

Objections

The Office objected to claims 4-6 as being improperly drafted multiple dependent claims. Applicants have amended the claim, thus obviating the objection.

Claim rejections under 35 USC 112 – Enablement and Written Description

The Office has rejected claim 23 under 35 USC 112, 1st paragraph as being directed to non-enabled subject matter. While Applicants respectfully traverse and solely to advance prosecution of the present application, Applicants have canceled the claim without prejudice to its subsequent prosecution in this or other continuing application. Thus the claim being canceled, the rejection is moot.

The Office also rejected claims 1, 2, 4-6, 8-10, 14, 16-24 and 26 for also failing to comply with 35 USC 112, 1st paragraph, written description. Applicants have canceled claim 23. Applicants have further amended the rejected claims or specifically point to support for the claims:

Claim 1 (R²): The Office indicated that the originally filed claims lacked support for R² representing R²²R²³. Applicants respectfully traverse. Preliminarily, Applicants note that a typographical error on page 4,

line 20 (corresponding to page 4, line 25 of the original German application), wherein a comma is omitted, was discovered in the specification with regards to R² being NR²²R²³. The specification originally noted that R² could be NR²²R²³OH, but there should have been a comma between “R²³” and “OH.” The Application supports R² representing R²²R²³ at page 4, line 20.

Claim 1 (K): The Office indicated that K lacked support as amended. Applicants respectfully direct the Office’s attention to page 7, lines 5-11.

Claim 2(R²³): The Office indicated that R²³ has no support for being OH or O-C₁-C₄-alkyl. Applicants have amended the claim accordingly.

The Office did not point out what subject matter it considered to be unsupported in the following claims, which it has rejected for lacking support. In a good-faith effort to respond to the Office’s concerns regarding these remaining claims, Applicants demonstrate examples of support for the following rejected claims.

Claim 4: originally filed claim 4 and page 9, lines 42-45.

Claim 5: originally filed claim 5 and page 8, lines 12-14, and lines 35-36.

Claim 6: originally filed claim 6 and page 10, lines 3-4.

Claim 8: originally filed claim 8 and page 4, line 30.

Claim 9: originally filed claim 9 and page 8, line 44 to page 9, line 14.

Claim 10: originally filed claim 10 and page 30, line 34 to page 31, line 26.

Claims 14, 16-24, and 26: originally filed claims 14, 16-24, and 26, and generally Table 1 on pages 29-30.

Rejections under 35 USC 112, 2nd paragraph (indefiniteness)

The Office also rejected claims 3, 7, and 9 for being indefinite under 35 USC 112, 2nd paragraph. Applicants respectfully traverse in part and have amended in part. Applicants have amended claims 3 and 7 to obviate the rejection: Applicants have added the requested “or”s into claim 3 in the substituent list for R⁵², added “(i)” to claim 7 for the R₃ group, and have amended claim 9 to correct the antecedent issue for group R⁵. Applicants traverse in part because claim 9 does not suffer from antecedent issues with regards to R⁵². Applicants respectfully direct the Office’s attention to claim 1, from which claim 9 depends to the definition of R⁵², as defined for group “G.”

Double patenting

The Office has lodged a provisional non-statutory double patenting rejection against claims 1, 4-6 and 9 of the present application in view of claim 10 of US Serial No. 11/536,994. Applicants respectfully request that this rejection be held in abeyance until notification of allowable subject matter. Applicants will

then either file a terminal disclaimer that complies with 37 CFR 1.321(c) or 1.321(d) or explain why the present application is patentably distinct from claim 10 of US Serial No. 11/536,994.

Likewise, the Office has lodged a provisional non-statutory double patenting rejection against claims 1-6, 8-10, 14, 16-24 and 26 in view of claims 1, 2 and 7-22 of US Patent No. 6,696,437. Applicants respectfully request that this rejection be held in abeyance until notification of allowable subject matter. Applicants will then either file a terminal disclaimer that complies with 37 CFR 1.321(c) or 1.321(d) or explain why the present application is patentably distinct from claims 1, 2 and 7-22 of US Patent No. 6,696,437.

CONCLUSION

Applicants believe the claims are in condition for allowance. Such action is respectfully requested.

If a telephone call would expedite allowance of the application in any form, the Examiner is invited to contact the undersigned.

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